**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 4228 OF 2004**

Vijay Sudam Jadhav ..Applicant

versus

The State of Maharashtra ..Respondents

Mr. P. R. Dave for the Applicant.

Mr. S. R. Shinde A.P.P. for the Respondents.

**CORAM : A.M. KHANWILKAR,J.**

**DATE : 20TH OCTOBER 2004.**

**P.C. :**

1. Heard counsel for the parties. Perused the record. The applicant has been arrested on 22.4.2004 in connection with the incident of 3.4.2004. Essentially two circumstances are pressed into service against the applicant. First, is identification of the applicant by two witnesses Satyawan Garad and Suresh Bankar. The second circumstance is of recovery of sword under Section 27 of the Evidence Act at the instance of the applicant on 23.4.2004 immediately on the next day of the arrest of the applicant. Relying upon the aforesaid circumstances, the learned APP submits that since the applicant is involved in the commission of offence he should not be released on

bail.

2. Having considered the rival submissions, I am inclined to grant bail to the applicant herein. Indeed, the sword has been recovered at the instance of the applicant under Section 27 of the Evidence Act. In so far as the two witnesses are concerned, out of them Suresh Bankar has identified the applicant but role ascribed to the applicant is that he was seen while running away from the spot. This witness has not even suggested that he has seen the applicant assaulting the victim or for that matter ran away with the sword. The only other witness who has identified the applicant and asserts that he had seen the applicant running away with the sword in his hand is Sataywan Garad. Interestingly, this witness had accompanied the victim after the incident upto the hospital on 3.4.2004 but his statement has been recorded on 1.5.2004 which is after the arrest of the applicant herein. Moreover the only explanation offered by this witness in his statement is that after the incident he went home and did not think it necessary to disclose the incident to any one till recording of the statement on 1.5.2004. Identification parade in which the applicant has been identified by the aforesaid two witnesses is stated to have been conducted on 3.5.2004 which means after the recording of the

statement implicating the applicant with his involvement in the offence, the Investigating agency thought it appropriate to conduct the identification parade. Be that as it may, now investigation is complete, charge sheet has also been filed on 25.6.2004. Taking overall view of the matter, in my opinion, the applicant deserves to be enlarged on bail also because he is of tender age of 22 years, if strict conditions are to be imposed on the following terms:

(a) The applicant is enlarged on bail in connection with C.R. No. 78 of 2004 registered with Mulund Police Station, on executing personal bond in the sum of Rs.20,000/= (Rupees Twenty Thousand only) with two local sureties in the like amount.

(b) The applicant shall not enter within the jurisdiction of Mulund Police Station, during the pendency of the trial except with the permission of the trial court.

(c) The applicant shall inform his place of residence where he intends to reside after his release within one week from the date of his release to the Investigating Officer as well as to the Registrar of the trial court.

(d) The Applicant shall report to the nearest police station where he would reside once in a week on Saturday between 10 a.m. to 1 p.m.

(e) The applicant shall not influence the prosecution witnesses or tamper with the prosecution evidence in any manner whatsoever.

(f) The applicant shall extend full co-operation to the trial court for early disposal of the case. In the event the trial court is of the opinion that the applicant is responsible for obstructing the smooth progress of the trial, that fact be recorded in the roznama which can be a ground for cancellation of bail.

Application disposed of accordingly.

A.M. KHANWILKAR, J.